

REMARKS

Claims 95-149 are pending in this application. No new matter is entered.

According to the Office Action dated September 14, 2010, claims 95-149 are subject to restriction under 35 U.S.C. § 121 as follows:

- I. Claims 95-98, drawn to a quantum dot.
- II. Claim 99, drawn to a quantum dot.
- III. Claim 100-124, drawn to a quantum dot.
- IV. Claims 125-126, a composition comprising a quantum dot.
- V. Claims 127-129, drawn to a method of detection using a quantum dot.
- VI. Claims 130-134, drawn to a therapy with a quantum dot.
- VII. Claim 135, drawn to a device comprising a quantum dot.
- VIII. Claim 136, drawn to a quantum dot-cell complex.
- IX. Claims 137-149, drawn to a method of producing a quantum dot.

Applicants **traverse** the restriction requirement. The examiner wrongly alleges that the quantum dots of group I-III, have no “special technical feature” because these claims are anticipated by prior art US 6,306,601 (Office Action, Pages 2-3). Applicants submit that US 6,306,601, “Detection and treatment of duplex polynucleotide damage”, by Jacqueline K. Barton et al., pertains to detecting duplex polynucleotides containing damage or errors using hindered intercalating compounds which are capable of intercalating only in the presence of such damage or error (abstract), which does not pertain to the quantum dots of the present invention.

Nevertheless, Applicants hereby elect to prosecute the subject matter of **Group I**, and pursuant to the additional election choices set forth at page 5 of the restriction requirement, applicants elect **a sulfur atom as the single species non-zinc linking group, and an ethylene glycol group as the single species of a luminescence promoter**, both of which are encompassed by claim 98. As claim 1 in does not require a biofunctional group nor a biofunctional thio, a species election to these groups is not required.

DOCKET NO.: NIHC-6039
Application No.: 10/594,075
Office Action Dated: September 14, 2010

PATENT

Claims 99-136 have accordingly been withdrawn without prejudice from consideration. Applicants do not concede that any of these claims are not patentable, and applicants reserve the right to file one or more continuation or divisional patent applications to the unelected claims.

Applicants request rejoinder of at least Group IX, claims 137-149, drawn to a method of producing a quantum dot.

If the Examiner has any questions, the Examiner is invited to contact the undersigned attorney at (215) 568-3100.

Date: October 15, 2010

/Jeffrey H. Rosedale/
Jeffrey H. Rosedale
Registration No. 46,018

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439